



Sept. 15, 2011

Hon. Hillary Rodham Clinton
Secretary of State
U.S. Department of State
2201 C Street, N.W.
Washington, D.C. 20520

Hon. Janet Napolitano
Secretary of the Department of Homeland Security
U.S. Department of Homeland Security
Washington, DC 20528

Dear Secretaries Clinton and Napolitano,

We are writing to express our deep concern about your agencies' apparent refusal to grant a B-1 visa to Kerim Yildiz, a U.K. national who is the Chief Executive of the U.K.-based Kurdish Human Rights Project (KHRP), a registered charity and limited company with charitable objects in England & Wales since 1992 (analogous to a U.S. 501(c)(3)). Mr. Yildiz seeks to enter the United States to speak to American audiences, meet with American officials and American civil society organizations, and receive a prestigious award – the Justice Award of the Peter and Patricia Gruber Foundation – on behalf of KHRP, but his visa application has been pending for almost a year. His unexplained exclusion from the United States, besides being unfair to him, infringes the constitutional rights of Americans who wish to meet with him. We know of no reason why Mr. Yildiz would be ineligible for a visa, and we are increasingly troubled by the possibility that the extraordinary delay in processing his visa may be related to his legitimate advocacy concerning the rights of Kurds in Turkey, Iraq, and elsewhere. We respectfully ask that you immediately grant Mr. Yildiz a visa or explain why he is being excluded from the United States.

In 2010, in anticipation of a trip to the United States, Mr. Yildiz attempted to register under the Electronic System of Travel Authorization (ESTA), but his registration was rejected. The U.S. Embassy in London advised Mr. Yildiz to submit a visa application, which he did. At an interview in late October 2010, consular staff expressed surprise that Mr. Yildiz's ESTA registration had been rejected and they were optimistic that he would be granted a visa quickly. Almost a year later, however, Mr. Yildiz has not received a visa or any explanation for the delay.

On Mr. Yildiz's behalf, the American Civil Liberties Union (ACLU) has made inquiries by phone and in writing with the Embassy and with the State Department's Office of Visa Services. In June 2011, the latter office informed the ACLU in writing that it was "currently reviewing Mr. Yildiz' case and [would] provide . . . a complete response as soon as possible." When Mr. Yildiz received an email from the Embassy seeking additional information about his proposed travel dates and the purposes of his trip, he immediately provided the requested information. Mr. Yildiz indicated that he planned to attend the Gruber Prize Awards ceremony, listed the organizations with which he expected to meet in the United States, and explained that although he had not rebooked his travel to the United States because of the difficulty he was encountering in being granted a visa, he was eager to do so. Almost three months have passed since Mr. Yildiz provided this information. A visa specialist at the State Department informed the ACLU on Sept. 8 that the application was "still being processed" and that the DOS could not offer any timeframe for the completion of processing.

Again, we know of no reason why Mr. Yildiz should be ineligible for a visa – or, for that matter, ineligible for entry under the visa waiver program. Mr. Yildiz entered the United States in 2009 on a non-immigrant visa, complied with all terms of his stay, and departed in a timely manner. KHRP is a respected human rights organization and Mr. Yildiz is a respected human rights advocate. Mr. Yildiz has written and co-authored numerous books on Kurds and human rights issues including *The Kurdish Conflict: International Humanitarian Law and Post-Conflict Mechanisms* and *The Kurds in Iraq; the Past, Present and Future*. He is a senior Advisor to the Geneva-based Centre for Humanitarian Dialogue. When Mr. Yildiz was in the United States in 2009, he spoke about "The 'Kurdish Opening' in Turkey" to an audience at Columbia University and participated in a discussion and book signing at the City University of New York. In several instances, Mr. Yildiz and KHRP have succeeded in compelling government compliance with international human rights standards, including through individual petitions to the European Court of Human Rights. In furtherance of KHRP's work, Mr. Yildiz has met with State Department officials in the United States, Turkey, Armenia, and Iraq to brief them about human rights issues in the Kurdish regions. The Turkey Desk Officer of the State Department's Office of Southern European Affairs has asked Mr. Yildiz to meet with him in Washington, D.C., if and when Mr. Yildiz is permitted to enter the country.

As you know, the undersigned organizations were among those that wrote to Secretary Clinton in February 2010 asking that the State Department take steps to ensure that the immigration laws do not unwarrantedly become barriers to the free exchange of ideas across international borders. In a constructive response to that letter, State Department Legal Advisor Harold Koh wrote in a December 2010 letter that, in assessing whether to grant a visa, the State Department would consider, among other things, "the reasons for the proposed travel and the positive or negative effects, if any, of the planned travel on U.S. public interests." Mr. Koh also wrote: "In evaluating the reasons for the proposed travel, the Department will give significant and sympathetic weight to the fact that the primary purpose of the visa applicant's travel will be to assume a university teaching post, to fulfill speaking engagements, to attend academic conferences, or for similar expressive or educational activities."

The factors that Mr. Koh outlined in his letter weigh in favor of granting a visa to Mr. Yildiz. Mr. Yildiz seeks to enter the United States to speak to American audiences; he has

already scheduled engagements with the ACLU, the Peter and Patricia Gruber Foundation, and the Open Society Foundations. Permitting him to visit the United States would serve the public interest, particularly because his area of specialty – Kurdish rights – is one of obvious relevance to current public debates, including those about the United States’ relations with Iraq and Turkey.

Once again, we respectfully request that you grant Mr. Yildiz a visa or explain without delay why his visa is being refused. As Mr. Yildiz is scheduled to receive the Justice Award from the Peter and Patricia Gruber Foundation on October 6, and in light of the fact that Mr. Yildiz’s application has been pending for almost a year already, we urge you to act immediately.

Thank you for your attention to this letter.

Sincerely,

American Civil Liberties Union
American Association of University Professors
PEN American Center

cc: Harold Koh, Legal Advisor to the Secretary of State
Janice L. Jacobs, Assistant Secretary, DOS Bureau of Consular Affairs
Anne-Marie Slaughter, Director, DOS Policy Planning Staff
Kelly Ryan, Acting Deputy Assistant Secretary for Immigration and Border Security, DHS (Office of Policy)
John R. Sandweg, Counselor to the Secretary and the Deputy Secretary, DHS (Office of the Secretary)
Esther Olavarria, Counselor to the Secretary, DHS
Gary Grindler, Acting Deputy Attorney General, DOJ